BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of New Rules I through XIII and the amendment of ARM 37.106.1946 pertaining to crisis stabilization facilities	))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Interested Persons

1. On May 30, 2008, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room, 2401 Colonial Drive, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process (including reasonable accommodations at the hearing site) or who need an alternative accessible format of this notice. If you need an accommodation, contact the department no later than 5:00 p.m. on May 19, 2008. Please contact Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951; telephone (406)444-9503; fax (406)444-9744; e-mail dphhslegal@mt.gov.

3. The rules as proposed to be adopted provide as follows:

RULE I APPLICATION OF OTHER RULES (1) In addition to the requirements established in this subchapter, each mental health center providing a secured inpatient crisis stabilization program shall comply with all the requirements established in ARM 37.106.1945 and 37.106.1946.

(2) To the extent that other licensure rules in ARM Title 37, chapter 106, subchapter 3 conflict with the terms of this subchapter, the terms of this subchapter will apply to secured crisis stabilization facilities.

AUTH: 50-5-103, MCA
IMP: 50-5-201, MCA

RULE II SCOPE OF THIS RULE (1) This rule is intended to apply to all state licensed mental health centers or hospitals providing a secured crisis stabilization service as part of the crisis service continuum.

AUTH: 50-5-103, MCA
IMP: 50-5-201, MCA

RULE III DEFINITIONS In addition to the definitions in 50-5-101, MCA, the following definitions apply to this subchapter:

(1) "Inpatient crisis stabilization program" means 24-hour supervised treatment for adults with a mental illness for the purpose of reducing the severity of an individual's mental illness symptoms.

(2) "Secured crisis stabilization facility (SCSF)" means a secure in-patient facility operated by a licensed hospital or a licensed mental health center that provides evaluation, intervention, and referral for individuals experiencing a crisis due to serious mental illness or a serious mental illness with a co-occurring substance use disorder. The facility may only provide secured services to a client when a detention exists as defined in 53-21-129, MCA.

AUTH: 50-5-103, MCA
IMP: 50-5-201, MCA

RULE IV ADMISSIONS PROCEDURES (1) The facility will develop and implement a written policy outlining the admission criteria for placing a client into the secured service.

AUTH: 50-5-103, MCA
IMP: 50-5-201, MCA

RULE V DISCHARGE PROCEDURES (1) The facility shall develop and implement discharge and transfer criteria for discharging a client from the secured setting. At the end of the detention the facility must:

(a) discharge the patient;
(b) refer the patient to a licensed nonsecured inpatient stabilization program;
(c) refer the patient to outpatient treatment; or
(d) transfer the client to an appropriate level of acute in-patient treatment.

AUTH: 50-5-103, MCA
IMP: 50-5-201, 50-5-202, MCA

RULE VI CONSTRUCTION REQUIREMENTS (1) Prior to construction, floor plans for the secured in-patient crisis stabilization facility must be submitted to the Licensure Bureau of the Department of Public Health and Human Services for review, comment, and approval.

(a) Prior to occupancy, the facility shall undergo an onsite inspection and receive the written approval of all authorities having jurisdiction.

(2) A SCSF is considered a separate mental health unit requiring a staff station located within the secured unit.

(a) The unit shall be staffed at all times patients are placed in the secured unit.

(3) The SCSF staff station (at a minimum) will provide the following:

(a) provisions for charting;
(b) provisions for hand washing;
(c) provisions for secured medication storage and preparation; and
(d) telephone access.

(4) The SCSF will provide a nourishment station as required in 2001 Edition

of the Guidelines for the Design and Construction of Hospitals and Health Care Facilities, Section 8.2.C9, For serving nourishments between meals. A copy of this publication can be obtained from the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena MT 59620-2953.

(5) A nourishment station will contain the following:

(a) a work counter;

(b) refrigerator;

(c) storage cabinets;

(d) a sink;

(e) space for trays and dishes used for nonscheduled meal service;

(f) hand washing facilities in or immediately accessible; and

(g) ice for patient consumption will be provided by icemaker-dispenser units or periodically set up individually during the day.

(6) A dining/activities/day space within the unit must be provided at a ratio of 35 square feet per resident, with at least 14 square feet dedicated to dining space.

(7) Patient rooms will be at a ratio of 100 square feet for single bedrooms. The room square footage does not include bathrooms, door swings, alcoves, or vestibules. No more than one patient shall reside in a single room in a secured unit.

AUTH: 50-5-103, MCA
IMP: 50-5-201, MCA

RULE VII PATIENT TOILETS AND BATHING (1) There will be at least one toilet available for every four patients in the facility.

(2) There will be at least one bathing unit for every six patients in the facility. A shower or tub is not required if the facility utilizes a central bathing unit for every six patients.

(3) All doors to toilet rooms or bathing units must swing out or slide into the wall and shall be unlockable from the outside.

(4) Toilet rooms and bathing facilities may be under key control by staff.

AUTH: 50-5-103, MCA
IMP: 50-5-201, MCA

RULE VIII SPECIAL LOCKING ARRANGEMENTS (1) The facility must follow the provisions of the 2000 Edition of the NFPA 101, Life Safety Code, (LSC). A copy of this publication can be obtained from the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena MT 59620-2953.

(2) The 2000 Edition of the NFPA 101, Life Safety Code, (LSC), has the following requirements for special locking arrangements for a secured SCSF unit. LSC 5-2.1.6.1 states:

(a) In buildings protected throughout by an approved supervised automatic fire detection system or approved supervised automatic sprinkler system and when permitted by chapters 8 through 30, doors in low or ordinary hazard areas, as defined by LSC 4-2.2, may be equipped with approved, listed, locking devices which

shall:

(i) unlock upon actuation of an approved supervised automatic fire detection system or approved supervised automatic sprinkler system installed in accordance with LSC 7-6 or 7-7; and

(ii) unlock upon loss of power controlling the lock or locking mechanism; and

(iii) initiate an irreversible process which will release the lock within 15 seconds whenever a force of not more than 15 pounds (67N) is continuously applied, for a period of not more than three seconds to the release device required in LSC 5-2.1.5.3. Relocking of such doors shall be by manual means only. Operation of the release device shall activate a signal in the vicinity of the door for assuring those attempting to exit that the system is functional. Exception to this subsection: The authority having jurisdiction may approve a delay not to exceed 30 seconds provided that reasonable life safety is assured pursuant to LSC 5-2.1.6.2. A sign shall be provided on the door adjacent to the release device which reads:

PUSH UNTIL ALARM SOUNDS
DOOR CAN BE OPENED IN 15 SECONDS

(A) Sign letters shall be at least one inch (2.5cm) high and one eighth inch (0.3cm) wide stroke.

(3) The department shall grant an SCSF exception to the LSC code - Special Locking Arrangements, based on an equivalency for the automatically releasing, panic hardware required by LSC 5-2.1.6.1. All of the following conditions shall apply to granting the exception:

(a) the use of mechanical locks, such as dead bolt, is not permitted. All locks used must be electromagnetically controlled;

(b) all secured doors in the unit must have a manual electronic key pad which must release the door after entry of the proper code sequence;

(c) all locks on all secured doors must automatically release upon any of the following conditions:

(i) the actuation of the approved supervised automatic fire alarm system;

(ii) the actuation of an approved supervised automatic sprinkler system;

(iii) loss of the public utility power controlling locks; and

(iv) a staff accessible switch at the staff station which is capable of releasing all doors.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

RULE IX SECLUSION AND RESTRAINT (1) A SCSF must be capable of providing restraint or seclusion and must ensure that the restraint or seclusion is performed in compliance with 42 CFR 482.13(f)(1) through (6). The department adopts and incorporates by reference 42 CFR 482.13(f)(1) through (6) (July 2, 1999), which contains standards for use of seclusion and restraint for behavioral management.

(2) Restraint and seclusion must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior, the patient's size,

gender, physical, medical, and psychiatric condition and personal history.

(3) Seclusion or restraint may only be used in emergency situations needed to ensure the physical safety of the individual patient, other patients, or staff of the facility and when less restrictive measures have been found to be ineffective to protect the resident or others from harm.

(4) Seclusion and restraint procedures must be implemented in the least restrictive manner possible in accordance with a written modification to the patient's health care/treatment plan and discontinued when the behaviors that necessitated the restraint or seclusion are no longer in evidence.

(5) "Whenever needed" or "prescribed as needed" standing orders for use of seclusion or restraint are prohibited.

(6) A physician or other authorized health care provider must authorize use of the restraint or seclusion within one hour of initiating the restraint or seclusion.

(7) Each order of restraint or seclusion is limited in length of time to 24 hours.

(8) A SCSF will have a minimum one "comfort/safe" room for use for patient seclusion as prescribed by the facility's policy and procedures, and in accordance with applicable state and federal standards.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

RULE X STAFF QUALIFICATIONS AND ORGANIZATIONAL STRUCTURE

(1) Each SCSF shall employ or contract with a site based administrator who has daily overall management responsibility for the operation of the SCSF. The administrator of the mental health center or hospital if they are site based to the secured crisis stabilization or, if the SCSF is part of a hospital per [RULE III(2)] may assume this responsibility.

(2) Each SCSF facility shall employ or contract with a program supervisor knowledgeable about the service and support needs of individuals with co-occurring mental illness and intoxication/addiction disorders who may be experiencing a crisis. The program supervisor must be site based.

(3) Each SCSF shall employ or contract with a licensed health care professional as defined in 50-5-101(34), MCA, for all hours of operation. The licensed health care professional may be the program supervisor.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

RULE XI SECURED CRISIS STABILIZATION FACILITY: CLIENT ASSESSMENTS (1) Each SCSF shall employ or contract with licensed mental health professionals to conduct clinical intake assessments which may be abbreviated assessments focusing on the crisis issues and safety.

(a) Abbreviated intake assessments must be conducted by a licensed mental health professional trained in clinical assessments including chemical dependency screening. The clinical intake assessment must include sufficient detail to individualize crisis plan goals and objectives.

(2) Based on the client's clinical needs, each SCSF will refer any necessary

additional assessments to appropriate and qualified providers. Additional assessments may include, but are not limited to:

(a) physical;
(b) psychological;
(c) emotional;
(d) behavioral;
(e) psychosocial;
(f) recreational;
(g) vocational;
(h) psychiatric; and
(i) chemical dependency evaluations.

(3) Each SCSF shall maintain a current list of providers who accept referrals for assessments and services not provided by the facility.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

RULE XII SECURED CRISIS STABILIZATION FACILITY: CLIENT DISCHARGE (1) Each SCSF shall prepare a discharge summary for each client no longer receiving services. The discharge summary must include:

(a) the reason for discharge;

(b) a summary of the services provided by the SCSF including recommendations for aftercare services and referrals to the other services, if applicable;

(c) an evaluation of the client's progress as measured by the treatment plan and the impact of the services provided by the facility; and

(d) the signature of the staff member who prepared the report and the date of preparation.

(2) Discharge summary reports must be filed in the clinical record within one week of the date of the client's formal discharge from services.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

RULE XIII SECURED CRISIS STABILIZATION FACILITY: EMERGENCY PROCEDURES (1) Each SCSF shall develop a written plan for emergency procedures. At a minimum, the plan must include:

(a) emergency evacuation procedures to be followed in the case of fire or other emergency;

(b) procedures for contacting emergency service responders; and

(c) the names and phone numbers for contacting other crisis response facility staff in emergency situations.

(2) Telephone numbers of the hospital, police department, ambulance, and poison control center must be posted by each telephone.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

4. The rule as proposed to be amended provides as follows. New matter is underlined. Matter to be deleted is interlined.

37.106.1946 MENTAL HEALTH CENTER: INPATIENT CRISIS STABILIZATION PROGRAM (1) In addition to the requirements established in this subchapter, each mental health center providing an inpatient crisis stabilization program shall comply with the requirements established in this rule.

(2) The facility must be annually inspected for compliance with fire codes by the state fire marshal or the marshal's designee. The facility shall maintain a record of such inspection for at least one year following the date of the inspection.

(3) The inpatient crisis stabilization program shall:

(a) employ or contract with a program supervisor knowledgeable about the service and support needs of individuals with mental illness experiencing a crisis. The program supervisor or a licensed mental health professional must be site based;

(b) require staff working in the crisis stabilization program:

(i) be 18 years of age;

(ii) possess a high school diploma or GED; and

(iii) be capable of implementing each resident's treatment plan;

(c) ensure that the program supervisor and all staff each have a minimum of six contact hours of annual training relating to the service and support needs of individuals with mental illness experiencing a crisis;

(d) orient staff prior to assuming the duties of the position on:

(i) the types of mental illness and treatment approaches;

(ii) suicide risk assessment and prevention procedures; and

(iii) program policies and procedures, including emergency procedures;

(e) orient staff within eight weeks from assuming the duties of the position on:

(i) therapeutic communications;

(ii) the legal responsibilities of mental health service providers;

(iii) mental health laws of Montana regarding the rights of consumers;

(iv) other services provided by the mental health center; and

(v) infection control and prevention of transmission of blood borne pathogens;

(f) maintain written program policies and procedures at the facility;

(g) train staff in the ~~Heimlich maneuver~~ abdominal thrust maneuver and ensure staff maintain current certification in cardiopulmonary resuscitation (CPR);

(h) maintain 24 hour awake staff;

(i) maintain a staff-to-patient ratio dictated by resident need. A procedure must be established to increase or decrease staff coverage as indicated by resident need;

(j) establish admission criteria which assess the individual's needs and the appropriateness of the services to meet those needs. At a minimum, admission criteria must require that the person:

(i) be at least 18 years of age;

(ii) be medically stable (with the exception of the person's mental illness);

(iii) ~~be drug and alcohol free to the extent it does not significantly impair the individual's ability to meet the other admission criteria;~~ be willing to enter the

program, follow program rules, and accept recommended treatment;

~~(iv) be willing to enter the program, follow program rules, and accept recommended treatment;~~

~~(v)~~ (iv) be willing to sign a no-harm contract, if clinically indicated;

~~(vi)~~ (v) not require physical or mechanical restraint;

~~(vii)~~ (vi) be in need of frequent observation on a 24 hour basis;

(k) establish written policies and procedures:

(i) for completing a medical screening and establishing medical stabilization, prior to admission;

(ii) to be followed should residents, considered to be at risk for harming themselves or others, attempt to leave the facility without discharge authorization from the licensed mental health professional responsible for their treatment; and

(iii) for the secure storage of toxic household chemicals and sharp household items such as utensils and tools;

(l) when clinically appropriate, provide each resident upon admission, or as soon as possible thereafter:

(i) a written statement of resident rights which, at a minimum, include the applicable patient rights in 53-21-142, MCA;

(ii) a copy of the mental health center grievance procedure; and

(iii) the written rules of conduct including the consequences for violating the rules;

(m) ensure hospital care is available through a transfer agreement for residents in need of hospitalization;

(n) maintain progress notes for each resident. The progress notes must be entered at least daily into the resident's clinical record. The progress notes must describe the resident's physical condition, mental status, and involvement in treatment services; and

(o) make referrals for services that would help prevent or diminish future crises at the time of the resident's discharge. Referrals may be made for the resident to receive additional treatment or training or assistance such as securing housing.

(4) The program supervisor and program staff must be trained in the therapeutic de-escalation of crisis situations to ensure the protection and safety of the residents and staff. The training must include the use of physical and nonphysical methods of managing residents and must be updated, at least annually, to ensure that necessary skills are maintained.

AUTH: 50-5-103, MCA
IMP: 50-5-103, 50-5-204, MCA

5. The proposed amendments describe a level of care that addresses the need to respond to mental health crisis within the community. The proposed new rules describe the minimum standards for a secured crisis stabilization facility that will provide secured care for individuals experiencing a crisis due to serious mental illness and/or a co-occurring substance use disorder. A secured crisis stabilization facility is intended to provide, when medically appropriate, a safe alternative to acute inpatient or hospital care through evaluation, assessment, intervention, and referral.

A secured crisis stabilization facility will be licensed by the Department of Public Health and Human Services and will employ or contract with an administrator who shall maintain overall daily responsibility for the facility's operations, a medical director who shall advise staff on clinical matters, and a program supervisor who is a licensed mental health professional knowledgeable about the service and support needs of individuals with co-occurring mental illness and substance use disorders. The secured crisis stabilization facility will ensure that acute inpatient care is available through a referral agreement for residents in need of more intensive care or medical treatment.

The proposed amendments identify requirements for policies and procedures, clinical records, client assessments, client discharge, management of inappropriate client behavior, and quality assessment. Finally, the proposed amendments establish the minimum requirements for the physical environment, personnel records, and staffing operations.

The secured crisis stabilization facility level of care is not currently included as an available alternative within either the public mental health or chemical dependency system in Montana. Individuals who will be served in this type of facility are now seen in a hospital emergency room at considerable public expense. For those who do not require acute inpatient care, the crisis stabilization facility provides a safe, less expensive alternative for patient assessment of clinical needs and referral to the appropriate available resources in the community.

6. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951, no later than 5:00 p.m. on June 6, 2008. Comments may also be faxed to (406)444-9744 or e-mailed to dphhslegal@mt.gov. The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. To be included on such a list, please notify this same person or complete a request form at the hearing.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at http://sos.mt.gov/ARM/Register. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice as printed in the Montana Administrative Register, but advises all concerned persons that, in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. The web site may be unavailable at times, due to system maintenance or technical problems.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct the hearing.

/s/ Lisa Amille Swanson
Rule Reviewer

/s/ Joan Miles
Director, Public Health and Human Services

Certified to the Secretary of State April 28, 2008.